

## CHAPTER 1300. - MEDICAL MARIHUANA ESTABLISHMENTS<sup>[42]</sup>

**Ordinance has been amended and no longer in effect except for marihuana facilities application submitted prior to October 30, 2019.**

Footnotes:

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**Editor's note**— Ord. No. 1217, § 1, adopted Sept. 7, 2017, repealed the former Ch. 1300, §§ 1300.01—1300.07, and enacted a new Ch. 1300 as set out herein. The former Ch. 1300 pertained to similar subject matter and derived from Ord. No. 1168, § 1, adopted June 27, 2011.

1300.01. - Legislative intent.

The purpose of this chapter is to exercise the police, regulatory, and land use powers of the City by licensing and regulating medical marihuana provisioning centers, medical marihuana grower facilities, medical marihuana safety compliance facilities, medical marihuana secure transporters, and medical marihuana processor facilities to the extent permissible under State and Federal laws and regulations and to protect the public health, safety, and welfare of the residents of the City; and as such this chapter constitutes a public purpose.

The City finds that the activities described in this chapter are significantly connected to the public health, safety, security, and welfare of its citizens and it is therefore necessary to regulate and enforce safety, security, fire, police, health and sanitation practices related to such activities and also to provide a method to defray administrative costs incurred by such regulation and enforcement.

The City further finds and declares that economic development, including job creation and training, and the protection of the public health, safety, and welfare of City neighborhoods and residents are public purposes.

Except as may be required or permitted by law or regulation, it is not the intent of this chapter to diminish, abrogate, or restrict the protections for medical use of marihuana found in the Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act or Section 8-501 of the City Charter.

(Ord. No. 1217, § 1, 9-7-17)

1300.02. - Definitions, interpretation and conflicts.

For the purposes of this chapter:

- (a) Any term defined by the Michigan Medical Marihuana Act, MCL 333.26421 et seq., as amended ("MMMA"), the Medical Marihuana Facilities Licensing Act, MCL 333.2701, et seq. (MMFLA) shall have the definition given in those acts, as amended, and the Marihuana Tracking Act ("MTA"), MCL 333.27901, et seq. if the definition of a word or phrase set forth in this chapter conflicts with the definition in the MMMA, MMFLA or MTA, or if a term is not defined but is defined in the MMMA, MMFLA or MTA, then the definition in the MMMA, MMFLA, or MTA shall apply.
- (b) Any term defined by 21 USC 860(e) referenced in this chapter shall have the definition given by 21 USC 860(e).
- (c) This chapter shall not limit an individual or entity's rights under the MMMA, MMFLA or MTA and these acts supersede this chapter where there is a conflict between them and the immunities and protections established in the MMMA unless superseded or preempted by the MMFLA.
- (d) All activities related to medical marihuana, including those related to a medical marihuana provisioning center, a medical marihuana grower facility, a medical marihuana secure transporter, a medical marihuana processor or a medical marihuana safety compliance facility shall be in compliance with the rules of the Medical Marihuana Licensing Board, the rules of the Michigan Department of Licensing and Regulatory Affairs, or any successor agency, the rules and regulations of the City, the MMMA, MMFLA and the MTA.
- (e) Any use which purports to have engaged in the cultivation or processing of medical marihuana into a usable form, or the distribution of medical marihuana, or the testing of medical marihuana either prior to or after enactment of this chapter without obtaining the required licensing set forth in this chapter shall be deemed to be an illegally established use and therefore not entitled to legal nonconforming status under the provisions of this chapter, and/or State law. The City finds and determines that it has not heretofore authorized or licensed the existence of any medical marihuana establishment, as defined herein, in the City in and under any form whatsoever. Any license granted pursuant to this chapter shall be exclusive to the licensee, is a revocable privilege, and is not intended to, nor shall it, create a property right. Granting a license does not create or vest any right, title, franchise, or other property right.
- (f) The following terms shall have the definitions given:

*Application* means an application for a license pursuant to the terms and conditions set forth in Sections 1300.05 and 1300.06.

*Application for a license renewal* means an application for a license renewal pursuant to the terms and conditions of Section 1300.07.

*Buffered use* means a use subject to the buffering and dispersion requirements of Sections 1300.13(a) and 1300.13(d).

*Building* means an independent, enclosed structure having a roof supported by columns or walls, intended and/or used for shelter or enclosure of persons or

chattels. When any portion of a structure is completely separated from every other part by dividing walls from the ground up, and without openings, each portion of such structure shall be deemed a separate structure, regardless of whether the portions of such structure share common pipes, ducts, boilers, tanks, furnaces, or other such systems. This definition refers only to permanent structures, and does not include tents, sheds, greenhouses and private garages on residential property, stables, or other accessory structures not in compliance with MMMA. A building does not include such structures with interior areas not normally accessible for human use, such as gas holders, tanks, smoke stacks, grain elevators, coal bunkers, oil cracking towers or similar structures.

*Chapter* means this Chapter 1300.

*Church* means an entire building set apart primarily for purposes of public worship, and which is tax exempt under the laws of this state, and in which religious services are held, and the entire building structure of which is kept for that use and not put to any other use inconsistent with that use.

*City* means the City of Lansing, Michigan.

*Council* or *City Council*, means the City Council of Lansing, Michigan.

*Clerk* shall mean the City Clerk of Lansing, Michigan.

*Cultivation* or *cultivate* as used in this chapter means: (1) all phases of growth of marihuana from seed to harvest, and drying trimming, and curing; (2) preparing, packaging or repackaging, labeling, or relabeling of any form of marihuana.

*Disqualifying felony* means a felony that makes an individual ineligible to serve as a registered primary caregiver under the MMMA, MMFLA or MTA.

*Employee* means any individual who is employed by an employer in return for the payment of direct or indirect monetary wages or profit, under contract, and any individual who volunteers his or her services to an employer for no monetary compensation, or any individual who performs work or renders services, for any period of time, at the direction of an owner, lessee, of other person in charge of a place.

*License* or *medical marihuana business license* means a license issued for the operation of a medical marihuana establishment pursuant to the terms and conditions of this chapter and includes a license which has been renewed pursuant to Section 1300.07.

*License application* means an application submitted for a license pursuant to the requirements and procedures set forth in Sections 1300.05 and 1300.06.

*Licensee* means a person issued a license for an establishment pursuant to this chapter.

*Marihuana* means all parts of the plant *Cannabis Sativa* L., growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparations of the plant or its seeds or resin.

Marihuana does not include:

- (1) The mature stalks of the plant;
- (2) Fiber produced from the stalks, oil or cake made from the seeds of the plant;
- (3) Any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, (except the resin extracted from those stalks, fiber, oil or cake); or
- (4) Any sterilized seed of the plant that is incapable of germination; or
- (5) Industrial hemp grown or cultivated or both for research, purposes under the Industrial Hemp Research Act.

*Marihuana-infused product* means a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation. Marihuana-infused product shall not be considered a food for purpose of the Food Law, 2000 PA 92, MCL 289.1101—289.8111.

*Marihuana Tracking Act* or "MTA" means Public Act 282 of 2016 MCL 333.27901, et seq.

*Medical marihuana* means any marihuana intended for medical use that meets all descriptions and requirements for medical marihuana contained in the MMMA, MMFLA and the MTA and any other applicable law.

*Medical Marihuana Commission* or *Commission* means the Medical Marihuana Commission established under Section 1300.03 of this chapter.

*Medical Marihuana Facilities Licensing Act* or *MMFLA* means Public Act 281 of 2016, MCL 333.27101, et seq.

*Medical marihuana establishment(s), or establishment,* means any facility, establishment and/or center that is required to be licensed under this chapter and possesses a license or approval to operate under the MMFLA, including: a medical marihuana provisioning center, a medical marihuana grower facility; a medical marihuana processor facility; a medical marihuana secure transporter; and a medical marihuana safety compliance facility.

*Medical marihuana grower facility,* means a commercial or business entity located in the City that is licensed or approved to operate by the State pursuant to the MMFLA and is licensed by the City pursuant to terms and conditions of

this chapter that cultivates, dries, trims or cures and packages marihuana in accordance with State law.

*Medical Marihuana Licensing Board* means the State board established pursuant to the MMFLA.

*Medical marihuana provisioning center*, means a commercial or business entity located in the City that is licensed or approved to operate by the State pursuant to the MMFLA and is licensed by the City pursuant to the terms and conditions of this chapter, that sells, supplies, or provides marihuana to registered qualifying patients only as permitted by State law. Medical marihuana provisioning center, as defined in the MMMA, MMFLA and MTA, includes any commercial property or business where marihuana is sold in conformance with State law and regulation. A noncommercial or nonbusiness location used by a primary caregiver to assist a qualifying patient, as defined in the MMMA, MMFLA or MTA connected to the caregiver through the State's marihuana registration process in accordance with the MMMA, MMFLA or MTA is not a medical marihuana provisioning center for purposes of this chapter.

*MMFLA* means the Medical Marihuana Facilities Licensing Act, MCL 333.2701, et seq. as amended from time to time.

*MMMA* means the Michigan Medical Marihuana Act, MCL 333.26421 et seq. as amended from time to time.

*MTA* means the Marihuana Tracking Act, MCL 333.27901, et seq. as amended from time to time.

*Ordinance* means the ordinance adopting this Chapter 1300.

*Park* means an area of land designated by the City as a park on its master plan or on a Council-approved list of City parks.

*Person* means an individual, partnership, firm, company, corporation, association, sole proprietorship, limited liability company, joint venture, estate, trust, or other legal entity.

*Processor or medical marihuana processor facility* means a commercial entity located in this City that is licensed or approved to operate by the State pursuant to the MMFLA and is licensed by the City pursuant to the terms and conditions of this chapter, that extracts resin from the marihuana or creates a marihuana-infused product, to the extent permitted by State law.

*Public playground equipment* means an outdoor facility, grouping, or concentration open to the public and on public property and containing three or more apparatus, including, but not limited to, slides, climbers, seesaws, and swings, designed for the recreational use of children and owned and operated by a local unit of government, school district, or other unit or agency of government.

*Restricted/limited access area* means a building, room or other area under the control of the licensee with access governed by the MMMA, the MMFLA, the MTA or other applicable State law.

*Safety compliance facility or medical marihuana safety compliance facility* means a commercial or business entity located in the City that is licensed or approved to operate by the State pursuant to the MMFLA and is licensed by the City pursuant to the terms and conditions of this chapter, that receives marihuana from a medical marihuana establishment or a registered qualifying patient or a registered primary caregiver, tests it for contaminants and for Tetrahydrocannabinol and other cannabinoids in accordance with State law.

*School* means and includes buildings used for school purposes to provide instruction to children and youth in grades pre-kindergarten through 12, and headstart when that instruction is provided by a public, private, denominational, or parochial school.

*Secure transporter or medical marihuana secure transporter* means a commercial or business entity that is licensed or approved to operate by the State pursuant to the MMFLA and is licensed to operate by the City pursuant to the terms and conditions of this chapter, that stores marihuana and transports marihuana between medical marihuana facilities for a fee and in accordance with State law.

*Stakeholder* means, with respect to a trust, the trustee and beneficiaries; with respect to a limited liability company, the managers and members; with respect to a corporation, whether profit or non-profit, the officers, directors, or shareholders; and with respect to a partnership or limited liability partnership, the partners, both general and limited.

*State* means the State of Michigan.

- (g) Any term defined by the MMMA, the MMFLA, or the MTA and not defined in this chapter shall have the definition given in the MMMA, MMFLA, or MTA, as applicable.

(Ord. No. 1217, § 1, 9-7-17)

1300.03. - Establishment of the Medical Marihuana Commission; membership; chairperson; meetings.

- (a) The Medical Marihuana Commission is hereby established. The Commission shall consist of five members, who shall be appointed by the Mayor with the consent of City Council. Members shall serve for terms of office of three years. For the initial appointments to the Commission, one member shall serve for a term of one year, two members shall serve for a term of two years, and two members shall serve for a term of three years.
- (b) The members of the Commission shall include the following:

- (1) Four members, one from each ward of the City; member recommendations may be made to the Mayor by the Council person in each ward.
  - (2) One at large member who is a resident of the City. Member recommendations may be made to the Mayor by the at-large Council persons.
  - (3) Each member shall be a resident of the City.
- (c) The chairperson of the Commission shall be elected annually by a majority vote of the members of the Commission. The Commission may meet at such times as the Commission may determine or as otherwise required in this chapter. The Commission shall adopt and file its own rules of procedure in accordance with the procedures set forth in Section 5-105 of the City Charter. The Commission shall maintain a written record of its proceedings and actions which shall be available for public inspection, showing the action of the Commission and the vote of each member upon each question considered. All meetings of the Commission shall be held in conformance with the Michigan Open Meetings Act, 1976 PA 267, MCL 15.261 et seq. The physical presence of three members shall constitute a quorum for Commission meetings. A majority vote of members physically present at a duly convened meeting of the Commission, a quorum being present, shall be necessary for any action. Electronic or telephonic presence shall not constitute physical presence; nor shall any such means be utilized for voting or decision making purposes.
  - (d) No voting member of the Commission shall hold any other public office or public employment in any local unit of government supported by City property taxes in whole or in part. No member of the Commission shall have any direct financial interest in a medical marijuana establishment.
  - (e) The Commission shall review and decide all appeals that are forwarded to it by the City Clerk under this chapter. The Commission's review of an appeal shall not be de novo. The Commission shall only overturn, or modify, a decision or finding of the Clerk if it finds such decision or finding to be arbitrary or capricious and not supported by material, substantial, and competent facts on the whole record considered by the Clerk in arriving at such decision or finding.
  - (f) The Commission may propose changes to this chapter to the City Council and may recommend rules and regulations related to this chapter for Council approval.
  - (g) The Chief of Police (or a designee), the Chief of the Fire Department (or a designee) and the Director of Planning and Neighborhood Development (or a designee) shall serve and advise the Commission in an ex officio non-voting capacity.

(Ord. No. 1217, § 1, 9-7-17)

1300.04. - Operation without license prohibited.

- (a) Every medical marijuana establishment in the City shall be licensed pursuant to the terms and provisions set forth in this chapter. No person shall operate a medical marijuana establishment in the City without first obtaining a license for the medical

marihuana establishment from the City Clerk. A medical marihuana establishment operating without a license under the provisions of this chapter or without a State license or approval pursuant to the MMFLA, as amended from time to time, is hereby declared to be a public nuisance.

- (b) The term of each license for a proposed location shall be one year. A license issued under this chapter for a proposed location may be conditioned on the approval of the operator by the State pursuant to the MMFLA at the location licensed under this chapter.

(Ord. No. 1217, § 1, 9-7-17)

1300.05. - License application submission.

- (a) Each medical marihuana establishment must be licensed by the City. Applications for a license shall be made in writing to the City Clerk. All applications submitted to the City Clerk in accordance with the provisions of this chapter shall be considered for the issuance of a license. An applicant may apply for multiple medical marihuana establishment licenses under this chapter of the same or different natures simultaneously.
- (b) A complete application for a license or licenses required by this chapter shall be made under oath on forms provided by the City Clerk, and shall contain all of the following:
  - (1) If the applicant is an individual, the applicant's name, date of birth, physical address, email address, one or more phone numbers, including emergency contact information, and a copy of a government-issued photo identification card of the applicant.
  - (2) If the applicant is not an individual, the names, dates of birth, physical addresses, email addresses, and one or more phone numbers of each stakeholder of the applicant, including designation of a stakeholder as an emergency contact person and contact information for the emergency contact person, articles of incorporation or organization, internal revenue service SS-4 EIN confirmation letter, and the operating agreement or bylaws of the applicant, if a limited liability company.
  - (3) The name and address of the proposed medical marihuana establishment and any additional contact information deemed necessary by the City Clerk.
  - (4) With respect to medical marihuana provisioning centers, for the applicant and for each stakeholder and employee of the applicant, affirmation that each is at least 18 years of age and has not been convicted of or pled guilty or no contest to a disqualifying felony. With respect to all other medical marihuana establishments, for the applicant and for each stakeholder and employee of the applicant, an affirmation that each and every person is at least 18 years of age and has not been convicted of or pled guilty or no contest to a disqualifying felony.



- (5) A signed release authorizing the Police Department to perform a criminal background check to ascertain whether the applicant, each stakeholder of the applicant, each operator and employee of the applicant meet the criteria set forth in this chapter.
- (6) With respect to medical marihuana provisioning centers, the name, date of birth, physical address, copy of photo identification, and email address for any operator or employee if other than the applicant.
- (7) An affirmation under oath as to whether the applicant or operator has had a business license revoked or suspended, and if revoked or suspended, then the reason for such revocation or suspension.
- (8) For the applicant or for each stakeholder of the applicant, a resume that includes whether the individual has any relevant experience with medical marihuana or a related industry.
- (9) A patient education plan to detail to patients the benefits or drawbacks of certain marihuana strains or products in connection with the debilitating medical conditions set forth in the Michigan Medical Marihuana Act.
- (10) With respect to medical marihuana provisioning centers, a description of drug and alcohol awareness programs that shall be provided or arranged for by the applicant and made available for the public.
- (11) A written description of the training and education that the applicant will provide to all employees.
- (12) A copy of the proposed business plan for the establishment, including, but not limited to, the following:
  - i. The proposed ownership structure of the establishment, including percentage ownership of each person or entity; and
  - ii. A current organization chart that includes position descriptions and the names of each person holding each position; and
  - iii. A proposed marketing, advertising, and business promotion plan, including plans to minimize the exposure of marketing or promoting marihuana products to minors; and
  - iv. Planned tangible capital investment in the City, including detail related to the number and nature of applicant's proposed medical marihuana establishments in the City and whether the locations of such establishments will be owned or leased; further, if multiple licenses are proposed, an explanation of the economic benefits to the City and job creation, if any, to be achieved through the award of such multiple licenses. Supporting factual data shall be included with the response to this subsection; and
  - v. Expected job creation from the proposed medical marihuana establishment(s); and
  - vi. Planned worker training programs; and

- vii. Financial structure and financing of the proposed medical marihuana establishment(s); and
  - viii. Short term and long term goals and objectives consistent with this chapter; and
  - ix. If a medical marihuana grower facility(ies) are proposed, plans to integrate such facility(ies) with other proposed medical marihuana establishments and a statement whether the medical marihuana grower facility will grow 1,000 plants or more and the square footage of the building(s) housing such grower facility, and if so, will the facility contain more than 10,000 square feet of space;
  - x. Community outreach/education plans and strategies;
  - xi. Charitable plans and strategies, whether fiscally or through volunteer work.
- (13) One of the following: (a) proof of ownership of the entire premises wherein the medical marihuana establishment is to be operated; or (b) written consent from the property owner for use of the premises in a manner requiring licensure under this chapter along with a copy of any lease for the premises.
  - (14) A description of the security plan for the medical marihuana establishment, including, but not limited to, any lighting, alarms, barriers, recording/monitoring devices, and/or security guard arrangements proposed for the establishment and premises. The security plan must contain the specification details of each piece of security equipment. Each medical marihuana establishment must have a security guard present during business hours or alternative security procedures shall be proposed in the business plan.
  - (15) A floor plan of the medical marihuana establishment, as well as a scale diagram illustrating the property upon which the medical marihuana establishment is to be operated, including all available parking spaces, and specifying which parking spaces, if any, are handicapped-accessible.
  - (16) Any proposed text or graphical materials to be shown on the exterior of the proposed medical marihuana establishment.
  - (17) A location area map, as measured pursuant to Section 1300.13(d) of the medical marihuana establishment and surrounding area that identifies the relative locations and the distances, as measured pursuant to Section 1300.13(d), to the buffered uses set forth in Section 1300.13(a).
  - (18) A facility sanitation plan to protect against any marihuana being ingested by any person or animal, indicating how the waste will be stored and disposed of, and how any marihuana will be rendered unusable upon disposal. Disposal by on-site burning or introduction in the sewerage system is prohibited.
  - (19) A proposed patient recordkeeping plan that will track quantities sold to individual patients and caregivers, and will monitor inventory.
  - (20) A description of procedures for testing of contaminants, including mold and pesticides.

- (21) An affidavit that neither the applicant nor any stakeholder of the applicant is in default to the City. Specifically, that the applicant or stakeholder of the applicant has not failed to pay any property taxes, special assessments, fines, fee or other financial obligation to the City.
- (22) Verification, including copies of actual bank statements, showing that the applicant has minimum net worth of \$100,000.00 in the applicant's name.
- (23) An estimate of the number and type of jobs that the medical marihuana establishment is expected to create, the amount and type of compensation expected to be paid for such jobs, and the projected annual budget and revenue of the medical marihuana establishment.
- (24) A signed acknowledgment that the applicant is aware and understands that all matters related to marihuana, growing, cultivation, possession, dispensing, testing, safety compliance, transporting, distribution, and use are currently subject to State and Federal laws, rules, and regulations, and that the approval or granting of a license hereunder does not exonerate or exculpate the applicant from abiding by the provisions and requirements and penalties associated with those laws, rules and regulations or exposure to any penalties associated therewith; and further the applicant waives and forever releases any claim, demand, action, legal redress, or recourse against the City, its elected and appointed officials and its employees and agents for any claims, damages, liabilities, causes of action, damages, and attorney fees the applicant may occur as a result of the violation by applicant, its officials, members, partners, shareholders, employees and agent of those laws, rules, and regulations and hereby waives, and assumes the risk of, any such claims and damages, and lack of recourse against the City, its elected and appointed officials, employees, attorneys, and agents.
- (25) As it relates to a medical marihuana grower facility, the following additional items shall be required:
  - i. A cultivation plan that includes, at a minimum, a description of the cultivation methods to be used, including plans for the growing mediums, treatments, and/or additives;
  - ii. A production testing plan that includes, at a minimum, a description of how and when samples for laboratory testing by an international organization for standardization accredited testing facility will be selected, what type of testing will be requested, and how the test results will be used;
  - iii. An affidavit that all operations will be conducted in conformance with the MMMA, the MMFLA, MTA and other applicable State law;
  - iv. A chemical and pesticide storage plan that states the names of the pesticides to be used in cultivation and where and how pesticides and chemicals will be stored in the establishment, along with a plan for the disposal of unused pesticides;
  - v. All cultivation must be performed in a building. The applicant shall specifically acknowledge this provision.

- (26) Proof of an insurance policy covering the establishment and naming the City, its elected and appointed officials, employees, and agents, as additional insured parties, available for the payment of any damages arising out of an act or omission of the applicant or its stakeholders, agents, employees, or subcontractors, in the amount of (a) at least \$1,000,000.00 for property damage; (b) at least \$1,000,000.00 for injury to one person; and (c) at least \$2,000,000.00 for injury to two or more persons resulting from the same occurrence. The insurance policy underwriter must have a minimum A.M. Best Company insurance ranking of B+, consistent with State law. The policy shall provide that the City shall be notified by the insurance carrier 30 days in advance of any cancellation.
- (27) a. Proof of a surety bond in the amount of \$50,000 with the City listed as the obligee to guarantee performance by applicant of the terms, conditions and obligations of this chapter in a manner and surety approved by the City Attorney; or, in the alternative,
- b. Creation of an escrow account as follows:
- i. The account must be provided by a State or federally regulated financial institution or other financial institution approved by the City Attorney based upon an objective assessment of the institution's financial stability; and
  - ii. The account must be for the benefit of the City to guarantee performance by licensee in compliance with this chapter and applicable law; and
  - iii. The account must be in the amount of \$20,000.00 and in a form prescribed by the City Attorney.
- (28) Any other information which may be required by Commission rule or City Council ordinance from time to time.
- (c) All applications shall be accompanied by a license application fee in an amount of \$5,000.00. Should the applicant not receive a license, one-half of the application fee shall be returned.
- (d) Upon receipt of a completed application meeting the requirements of this section and the appropriate license application fee, the City Clerk shall refer a copy of the application to each of the following for their approval: the Fire Department, the Building Safety Office, the Police Department, the Zoning Administrator, and the City Treasurer.
- (e) Except as provided in Section 1300.18 no application shall be approved unless:
- (1) The Fire Department and the Building Safety Office have inspected the proposed location for compliance with all laws for which they are charged with enforcement and for compliance with the requirements of this chapter.
  - (2) The Zoning Administrator has confirmed that the proposed location complies with the Zoning Code and this chapter, including any variances granted under Section 1300.18.

- (3) The City Treasurer has confirmed that the applicant and each stakeholder of the applicant and the proposed location of the establishment are not in default to the City.
- (4) The Police Department has determined that the applicant has met the requirements of this chapter with respect to the background check and security plan.

(Ord. No. 1217, § 1, 9-7-17)

1300.06. - License application evaluation.

- (a) The City Clerk shall assess, evaluate, score and rank all applications submitted according to the provisions of this chapter. No application shall be accepted for assessment, evaluation, scoring, and ranking unless such application contains the approvals required by Section 1300.05.
- (b) In its application assessment, evaluation, scoring, and ranking, deliberations, the Clerk shall assess, evaluate, score, and rank each application based upon a scoring and ranking procedure developed by the Clerk consistent with the requirements, conditions, and provisions of this chapter in each of the categories set forth below in this subsection. Overall scoring and ranking shall be conducted and applied by the Clerk on the basis of assigned points from zero points to 100 points with the lowest overall total score as zero points and the highest possible total score being 100 points.
  - (1) The content and sufficiency of the information contained in 1300.05(b)(12) and (23); the maximum number of scoring points in this category shall be 50 points.
  - (2) Whether the proposed establishment will be consistent with land use for the surrounding neighborhood and not have a detrimental effect on traffic patterns and resident safety. The maximum number of scoring points in this category shall be 20 points.
  - (3) Planned outreach on behalf of the proposed establishment, and whether the applicant or its stakeholders have made, or plan to make, significant physical improvements to the building housing the medical marijuana establishment, including plans to eliminate or minimize traffic, noise, and odor effects on the surrounding neighborhood. The maximum number of scoring points in this category shall be ten points.
  - (4) Whether the applicant or any of its stakeholders have a record of acts detrimental to the public health, security, safety, morals, good order, or general welfare prior to the date of the application; whether the applicant or any of its stakeholders have previously operated an illegal business of any kind, including any violation of City medical marijuana moratoriums. The maximum number of scoring points in this category shall be ten points.
  - (5) Whether the applicant has reasonably and tangibly demonstrated it possesses sufficient financial resources to fund, and the requisite business experience to execute, the submitted business plan and other plans required by Section

1300.05. The maximum number of scoring points in this category shall be ten points.

- (c) Based upon testimony, written and oral comments from the public, Planning Board review, maps, historical data, Council committee deliberations, and public hearings, the City Council finds and determines that it is in the public interest and serves a public purpose that the maximum number of licenses issued for medical marihuana provisioning centers shall be capped at 25, and implemented in a two-phase process in order to balance serving patients' needs and spreading economic development.
  - (1) Phase one: At the conclusion of a 30-day enrollment period set by the City Clerk, the City Clerk shall begin processing of applications for authorization of a maximum of 20 provisioning center licenses to allow for an efficient and manageable administrative review. The City Clerk may adjust distribution of phase two licenses to meet patients' needs.
  - (2) Phase two: At the conclusion of a second 30-day enrollment period set by the Clerk, which is open to new applications and amended applications, the Clerk may authorize a maximum of five additional provisioning center licenses during the two-phase process. An application submitted during phase one to the Clerk, but not selected for approval during phase one, may be considered for approval during phase two. The Clerk will initiate phase two within one year of the start of phase one.
- (d) In the event that there are more applicants for provisioning center licenses who meet the minimum requirements set forth in Section 1300.06(b) than there are licenses available in either phase one or two, the top scoring 20 applicants in phase one and top scoring five applicants in phase two, shall be eligible to receive provisioning center licenses in accordance with the assessment, evaluation, scoring, and ranking procedures established in this chapter. In the event of an evaluation scoring tie during either phase one or phase two, which causes there to be more than 20 and five highest scoring applicants respectively, the scoring-tied applicants will be entered into a random draw using procedures set by the City Clerk consistent with subsections 1300.06(c) and (d). Those applications randomly selected shall be eligible to receive a provisioning center license; however, in no event shall the maximum number of provisioning center licenses ever exceed 25. All license applications must be submitted during the open enrollment periods set by the Clerk.
- (e) Nothing in this section is intended to confer a property or other right, duty, privilege or interest in a license of any kind or nature whatsoever including, but not limited to, any claim of entitlement.
- (f) The Clerk may engage professional expert assistance in performing the Clerk's duties and responsibilities under the chapter.

(Ord. No. 1217, § 1, 9-7-17)

1300.07. - License renewal application.

- (a) Application for a license renewal required by this chapter shall be made in writing to the City Clerk at least 30 days prior to the expiration of an existing license.
- (b) An application for a license renewal required by this chapter shall be made under oath on forms provided by the City, and shall contain all of the information required by Section 1300.05(b).
- (c) An application for a license renewal shall be accompanied by a renewal fee in an amount of \$5,000.00 which half will be returned should the license not be renewed. The renewal fee is established to defray the costs of the administration of this chapter.
- (d) Upon receipt of a completed application for a license renewal meeting the requirements of this chapter and the license renewal fee, the City Clerk shall refer a copy of the renewal application to each of the following for their approval: the Fire Department, the Building Safety Office, the Police Department, the Zoning Administrator, and the City Treasurer.
- (e) No application for a license renewal shall be approved unless:
  - (1) The Fire Department and the Building Safety Office have inspected the proposed location for compliance with all laws for which they are charged with enforcement within the past calendar year.
  - (2) The Zoning Administrator has confirmed that the location complies with the Zoning Code and this chapter, at the time a license is granted, including any variances granted under Section 1300.18.
  - (3) The City Treasurer has confirmed that the applicant and each stakeholder of the applicant and the location of the medical marihuana establishment are not currently in default to the City.
  - (4) The Police Department has reviewed the application and determined that the applicant has satisfied the requirements of this chapter with respect to the background check and security plan.
  - (5) The applicant possesses the necessary State licenses or approvals, including those issued pursuant to the MMFLA.
  - (6) The applicant has operated the medical marihuana establishment in accordance with the conditions and requirements of this chapter.
  - (7) The medical marihuana establishment has not been declared a public nuisance.
  - (8) The applicant is operating the medical marihuana establishment in accordance with Federal, State, and local laws and regulations.
- (f) If written approval is given by each individual, department, or entity identified in subsection (e), the City Clerk shall issue a license renewal to the applicant. If no renewal license is issued, half of the renewal fee shall be returned. The renewal shall be deemed approved if the City has not issued formal notice of denial within 60 days of the filing date of the application, unless the applicant is advised of non-compliance under Section 1300.07(e) during such period.

1300.08. - Licenses generally.

- (a) To the extent permissible under law, all information submitted in conjunction with an application for a license or license renewal required by this chapter is confidential and exempt from disclosure under the Michigan Freedom of Information Act, 1976 PA 442, MCL 15.231 et seq., including the trade secrets or commercial or financial information exemptions available under Section 13(f) of the Michigan Freedom of Information Act. Furthermore, no personal or medical information concerning the applicant shall be submitted to the Medical Marihuana Commission.
- (b) Licensees may transfer a license issued under this chapter to a different location upon receiving written approval from the City Clerk. In order to request approval to transfer a license location, the licensee must make a written request to the City Clerk, indicating the current license location and the proposed license location. Upon receiving the written request, the City Clerk shall refer a copy of the written request to each of the following for their approval: the Fire Department, the Building Safety Office, the Police Department, the Zoning Administrator, and the City Treasurer. No license transfer shall be approved unless each such individual department, or entity gives written approval that the licensee and the proposed license location meet the standards identified in this chapter, including but not limited to Section 1300.05(e), and the City Clerk has determined that the proposed location meets the requirements of Sections 1300.06(b)(2) and (3).
- (c) Licensees may transfer a license issued under this chapter to a different individual or entity upon receiving written approval by the City Clerk. In order to request approval to transfer a license to a different individual or entity, the licensee must make a written request to the City Clerk, indicating the current licensee and the proposed licensee. Upon receiving the written request, the City Clerk shall consider the request as a new application for a license and the procedures set forth in Sections 1300.05 and 1300.06 shall be followed including submission of the license application fee. Application fees are non-transferable.
- (d) Licensees shall report any other change in the information required by this chapter to the City Clerk within ten business days of the change. Failure to do so may result in suspension or revocation of the license.
- (e) Any license application approved pursuant to this chapter shall not be effective, and no medical marihuana establishment may operate, unless the medical marihuana establishment is operated pursuant to a license or approval issued under the MMFLA.

1300.09. - Minimum operational standards of a medical marihuana provisioning center.

Except as may be preempted by state law or regulation:



- (a) Every medical marihuana provisioning center must be located in a building, as defined under Section 1300.02.
- (b) No medical marihuana provisioning center shall be open between the hours of 10:00 p.m. and 9:00 a.m.
- (c) Consumption of marihuana shall be prohibited on the premises of a medical marihuana provisioning center except as permitted by City Charter Section 8-501 and State law.
- (d) A medical marihuana provisioning center shall continuously monitor the entire premises on which they are operated with surveillance systems that include security cameras. The video recordings shall be maintained in a secure, off-site location for a period of 14 days.
- (e) Unless permitted by the MMMA, public or common areas of the medical marihuana provisioning center must be separated from restricted or non-public areas of the provisioning center by a permanent barrier. Unless permitted by the MMMA, no medical marihuana is permitted to be stored, displayed, or transferred in an area accessible to the general public.
- (f) All medical marihuana storage areas within medical marihuana provisioning center must be separated from any customer/patient areas by a permanent barrier. Unless permitted by the MMMA, no medical marihuana is permitted to be stored in an area accessible by the general public or registered customers/patients. Medical marihuana may be displayed in a sales area only if permitted by the MMFLA.
- (g) Any usable medical marihuana remaining on the premises of a medical marihuana provisioning center while the medical marihuana provisioning center is not in operation shall be secured in a safe permanently affixed to the premises.
- (h) Reserved.
- (i) No medical marihuana provisioning center shall be operated in a manner creating noise, dust, vibration, glare, fumes, or odors detectable to normal senses beyond the boundaries of the property on which the medical marihuana provisioning center is operated; or any other nuisance that hinders the public health, safety and welfare of the residents of the City.
- (j) The license required by this chapter shall be prominently displayed on the premises of a medical marihuana provisioning center.
- (k) Disposal of medical marihuana shall be accomplished in a manner that prevents its acquisition by any person who may not lawfully possess it and otherwise in conformance with State law.
- (l) All medical marihuana delivered to a patient shall be packaged and labeled as provided by State law and this chapter. The label shall include:
  - (1) A unique alphanumeric identifier for the person to whom it is being delivered.

- (2) A unique alphanumeric identifier for the cultivation source of the marihuana.
  - (3) That the package contains marihuana.
  - (4) The date of delivery, weight, type of marihuana and dollar amount or other consideration being exchanged in the transaction.
  - (5) A certification that all marihuana in any form contained in the package was cultivated, manufactured, and packaged in the state of Michigan.
  - (6) The warning that "this product is manufactured without any regulatory oversight for health, safety or efficacy. There may be health risks associated with the ingestion or use of this product. Using this product may cause drowsiness. Do not drive or operate heavy machinery while using this product. Keep this product out of reach of children. This product may not be used in any way that does not comply with State law or by person who does not possess a valid medical marihuana patient registry card."
  - (7) The name, address, email address, and telephone number of an authorized representative of the dispensary whom a patient can contact with any questions regarding the product.
- (m) A licensee shall require all registered patients present both their Michigan medical marihuana patient/caregiver ID card and State identification prior to entering restricted/limited areas or non-public areas of the medical marihuana provisioning center, and if no restricted/limited area is required, then promptly upon entering the medical marihuana provisioning center.
  - (n) The premises shall be open for inspection during the stated hours of operation and as such other times as anyone is present on the premises.
  - (o) It shall be prohibited to display any signs that are inconsistent with local laws or regulations or State law.
  - (p) It shall be prohibited to use advertising material that is misleading, deceptive, or false, or that is designed to appeal to minors.
  - (q) No licensed medical marihuana provisioning center shall place or maintain, or cause to be placed or maintained, an advertisement of medical marihuana in any form or through any medium within the distance limitations set forth in Section 1300.13(a).
  - (r) Certified laboratory testing results that display at a minimum the Tetrahydrocannabinol (THC), Cannabidiol (CBD), total cannabinoid testing results, and a pass/fail rating based on the certified laboratory's state-required testing must be available to all medical marihuana provisioning center patients/customers upon request and prominently displayed.

(Ord. No. 1217, § 1, 9-7-17)

1300.10. - Minimum operational standards of a medical marihuana grower facility.

- (a) Except as may be preempted by State law or regulation, the following minimum standards for medical marihuana grower facilities shall apply:
- (1) The medical marihuana grower facility shall comply at all times and in all circumstances with the MMMA, the MMFLA, the MTA, and the general rules of the Department of Licensing and Regulatory Affairs, or their successors, as they may be amended from time to time.
  - (2) Except as provided by State law and City Charter, consumption and/or use of medical marihuana shall be prohibited at the grower facility.
  - (3) All grower activity related to the grower facility shall be performed in a building.
  - (4) The premises shall be open for inspection during the stated hours of operation and as such other times as anyone is present on the premises.
  - (5) Any medical marihuana grower facility shall comply with the MTA and shall maintain a log book and/or database identifying by date the amount of medical marihuana and the number of medical marihuana plants on the premises which shall not exceed the amount permitted under the grower license issued by the state. This log shall be available to law enforcement personnel to confirm that the medical marihuana grower does not have more medical marihuana than authorized at the location and shall not be used to disclose more information than is reasonably necessary to verify the lawful amount of medical marihuana at the facility.
  - (6) All medical marihuana shall be contained within the building in a locked facility in accordance with the MMMA, the MMFLA, MTA, and the rules and regulations of the Medical Marihuana Licensing Board, as amended.
  - (7) All necessary building, electrical plumbing and mechanical permits shall be obtained from the City or other applicable government authority for any portion of the structure in which electrical wiring, lighting and/or watering devices that support the cultivation, growing or harvesting of marihuana are located.
  - (8) That portion of the structure where any chemicals such as herbicides, pesticides, and fertilizers are stored shall be subject to inspection and approval by the Fire Department to ensure compliance with the State Fire Codes.
  - (9) The dispensing of medical marihuana at the medical marihuana grower facility shall be prohibited.
  - (10) There shall be no other accessory uses permitted within the same facility other than those associated with cultivating, processing, or testing medical marihuana. Multi-tenant commercial buildings may permit accessory uses in suites segregated from medical marihuana grower facility.
  - (11) All persons working in direct contact with medical marihuana shall conform to hygienic practices while on duty, including but not limited to:
    - i. Maintaining adequate personal cleanliness;

- ii. Washing hands thoroughly in adequate hand-washing areas before starting work and at any other time when the hands may have become soiled or contaminated;
  - iii. Refraining from having direct contact with medical marihuana if the person has or may have an illness, open lesion, including boils, sores or infected wounds, or any other abnormal source of microbial contamination, until the condition is corrected.
- (12) Litter and waste shall be properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where medical marihuana is exposed.
  - (13) Floors, walls, and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair.
  - (14) There shall be adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for waste development and minimize the potential for waste becoming an attractant, harborage or breeding place for pests.
  - (15) Any buildings, fixtures and other facilities shall be maintained in a sanitary condition.
  - (16) Each cultivation center shall provide its occupants with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair.
  - (17) Medical marihuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.
  - (18) Medical marihuana grower facilities shall be free from infestation by insects, rodents, birds, or vermin or any kind.
  - (19) Medical marihuana grower facilities shall produce no products other than useable medical marihuana intended for human consumption.
- (b) In furtherance of the public health, safety, and welfare, exterior signage or advertising identifying the facility as a medical marihuana grower facility shall be prohibited.
  - (c) Venting of marihuana odors into the areas surrounding the medical marihuana grower facility is deemed and declared to be a public nuisance.

(Ord. No. 1217, § 1, 9-7-17)

1300.11. - Minimum operational standards of a medical marihuana safety compliance facility.

- (a) Except as may be preempted by State law or regulation, the following minimum standards for safety compliance facilities shall apply:

- (1) The safety compliance facility shall comply at all times and in all circumstances with the MMMA, the MMFLA, the MTA, and the general rules of the Medical Marihuana Licensing Board as they may be amended from time to time.
  - (2) Except as provided by State law and Section 8-501 of the City Charter consumption and/or use of medical marihuana shall be prohibited at the facility.
  - (3) The premises shall be open for inspection during the stated hours of operation and as such other times as anyone is present on the premises.
  - (4) Any safety compliance facility shall maintain a log book and/or database identifying by date the amount of medical marihuana on the premises and from which particular source. The facility shall maintain the confidentiality of qualifying patients in compliance with the Michigan Medical Marihuana Act, as amended from time to time.
  - (5) All medical marihuana shall be contained within the building in an enclosed, locked facility in accordance with the MMMA, the MMFLA, and the MTA, and the rules and regulations of the Medical Marihuana Licensing Board, as amended.
  - (6) There shall be no other accessory uses permitted within the same facility other than those associated with testing medical marihuana.
  - (7) All persons working in direct contact with medical marihuana shall conform to hygienic practices while on duty; training programs shall be developed and implemented for all employees on recognized safe health practices in a safety compliance facility.
  - (8) Litter and waste shall be properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where medical marihuana is exposed.
  - (9) Floors, walls and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair.
  - (10) Any buildings, fixtures and other facilities shall be maintained in a sanitary condition.
  - (11) Medical marihuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.
- (b) Exterior signage or advertising identifying the facility as a medical marihuana safety compliance facility shall be prohibited.

(Ord. No. 1217, § 1, 9-7-17)

1300.12. - Minimum operational standards of a medical marihuana processor facility and a medical marihuana secure transporter.

- (a) Except as may be preempted by State law or regulation, the following minimum standards for a medical marihuana processor facility and a medical marihuana secure transporter shall apply:
- (1) The processor and secure transporter shall comply at all times and in all circumstances with the MMMA, the MMFLA, MTA and the general rules of the Medical Marihuana Licensing Board and the Department of Licensing and Regulatory Affairs, or their successors, as the foregoing laws and regulations may be amended from time to time.
  - (2) Except as provided by State law and Section 8-501 of the City Charter, consumption and/or use of medical marihuana shall be prohibited at the processor or secure transporter facility.
  - (3) All activity related to the processor facility shall be performed indoors in a building.
  - (4) The premises shall be open for inspection during the stated hours of operation and as such other times as anyone is present on the premises.
  - (5) Any processor and/or secure transporter facility shall maintain a log book and/or database in accordance with the MMFLA, the MTA and the rules and regulations of the Medical Marihuana Licensing Board identifying by date the amount of medical marihuana on the premises which shall not exceed the amount permitted under the processor license issued by the State, to the extent a State permit process exists. This log shall be available to law enforcement personnel to confirm that the processor does not have more medical marihuana than authorized at the location and shall not be used to disclose more information than is reasonably necessary to verify the lawful amount of medical marihuana at the facility.
  - (6) All medical marijuana will be tagged with unique identification.
  - (7) All medical marihuana shall be contained within the building in a locked facility in accordance with the MMMA, the MMFLA, MTA and the rules and regulations of the Medical Marihuana Licensing Board, as amended.
  - (8) All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the structure in which electrical wiring for devices that support the processing or secure transporting of medical marihuana are located.
  - (9) That portion of the structure where the storage of any chemicals exists shall be subject to inspection and approval by the Fire Department to ensure compliance with the Michigan Fire Protection Code.
  - (10) The dispensing of medical marihuana at the medical marihuana processor or secure transporter facility shall be prohibited except as authorized by City Charter and State law.
  - (11) There shall be no other accessory uses permitted within the same facility other than those associated with the processing multi-tenant commercial

buildings may permit accessory uses in suites segregated from the processor facility.

- (12) All persons working in direct contact with medical marihuana shall conform to hygienic practices while on duty, including but not limited to:
  - i. Maintaining adequate personal cleanliness;
  - ii. Washing hands thoroughly in adequate hand-washing areas before starting work and at any other time when the hands may have become soiled or contaminated;
  - iii. Refraining from having direct contact with medical marihuana if the person has or may have an illness, open lesion, including boils, sores or infected wounds, or any other abnormal source of microbial contamination, until the condition is corrected.
- (13) Litter and waste shall be properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where medical marihuana is exposed.
- (14) Floors, walls, and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair.
- (15) There shall be adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste development of odor and minimize the potential for waste becoming and attractant, harborage or breeding places for pests.
- (16) Any buildings, fixtures and other facilities shall be maintained in a sanitary condition.
- (17) Each medical marihuana processor facility shall provide its occupants with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair.
- (18) Medical marihuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.
- (19) Processor facilities shall be free from infestation by insects, rodents, birds, or vermin or any kind.
- (20) Processor facilities shall produce no products other than useable medical marihuana intended for human consumption.
- (21) All medical marihuana processors shall be certified as accredited under a recognized food safety system such as SQF, ISO 22000, BRC, or the FDA's FSMA (Food Safety Modernization Act) rules or demonstrate that they are actively pursuing said certification at the time of the licensing and obtain said certification within 18 months of operation.

- (22) The processor shall pay for and complete an annual audit using an accredited third party auditor recognized under whatever food safety system the processor is accredited under. A copy of the audit report shall be provided to the City by the auditor within ten days of the audit completion. In the event there are deficiencies identified by the auditor, the processor shall submit to the City a correction action plan to address the deficiencies. All deficiencies shall be addressed within 30 days of submittal of the initial deficiency report.
- (b) In furtherance of the public health, safety, and welfare, exterior signage or advertising identifying the facility as a medical marihuana processor facility and/or medical marihuana secure transporter facility shall be prohibited.

(Ord. No. 1217, § 1, 9-7-17)

1300.13. - Location, buffering, dispersion, and zoning requirements for medical marihuana provisioning centers.

- (a) Except in accordance with Section 1300.18, for buffering and dispersion purposes, no medical marihuana provisioning center shall be located within:
- (1) One thousand feet, of an operational school, including pre-kindergarten that is located within a school; or
  - (2) Five hundred feet, of the following buffered uses: public playground equipment located in a park; a commercial child care organization (non-home occupation) that is required to be licensed or registered with the Michigan Department of Health and Human Services, or its successor agency, a church; a facility at which substance abuse prevention services or substance abuse treatment and rehabilitation services and those terms are defined in Part 61 or PA 368 of 1978, MCL 333.6101 et seq., are offered; or another medical marihuana provisioning center.
- (b) Medical marihuana provisioning centers shall be limited to F and F1-Commercial, G2-Wholesale, H-Light Industrial, and I-Heavy Industrial as such districts are described and designated as provided in the Zoning Code provisions of the this Code.
- (c) No medical marihuana provisioning center shall be located within another business except as permitted by the Medical Marihuana Licensing Board regulations.
- (d) For the purpose of calculating the buffering and dispersion requirements of this Section 1300.13, the distance shall be measured along the center line of the street or streets of address between two fixed points on the center line determined by projecting straight lines, at right angles to the center line, from the part of the buffered use nearest to the contemplated location of the medical marihuana establishment and from the part of the contemplated location nearest to the buffered use. The distances from the medical marihuana establishment to the point on the centerline and from the buffered use to the point on the centerline shall be included in the calculation. For provisioning centers located within a commercial strip mall or



retail center, the measurement shall be from the property line of the provisioning center to the property line of another provisioning center.

- (e) Except as otherwise permissible under the City Charter at Section 8-501, no person shall allow the consumption of marihuana or marihuana infused products on licensed premises.
- (f) No medical marihuana establishment shall be located in an unzoned area or in an area subject to an agreement entered into pursuant to Public Act 425 of 1984.

(Ord. No. 1217, § 1, 9-7-17)

1300.14. - Location of medical marihuana grower facilities, medical marihuana safety compliance facilities, medical marihuana processor facilities, and medical marihuana secure transporters.

- (a) All medical marihuana grower facilities shall be subject to subsection 1300.13(e) and limited to H-Light Industrial and I-Heavy Industrial zoning districts as identified in this Code.
- (b) All medical marihuana safety compliance facilities, medical marihuana processor facilities, and medical marihuana secure transporter facilities shall be subject to Section 1300.13(e) and shall be limited to the H-Light Industrial, I-Heavy Industrial, or G2-Wholesale zoning districts as identified in this Code.
- (c) No medical marihuana establishment shall be located in an unzoned area or in an area subject to an agreement entered into pursuant to Public Act 425 of 1984.
- (d) Except as otherwise permissible under the City Charter at Section 8-501, no person shall allow the consumption of marihuana or marihuana infused products on licensed premises.

(Ord. No. 1217, § 1, 9-7-17)

1300.15. - License revocation; bases for revocation; appeal of license denial.

- (a) Any license issued under this chapter may be revoked by the City Clerk after an administrative hearing if the City Clerk finds and determines that grounds for revocation exist. Any grounds for revocation must be provided to the licensee at least ten days prior to the date of the hearing by first class mail to the address given on the license application or any address provided to the City Clerk in writing subsequent to the filing of an application.
- (b) A license applied for or issued under this chapter may be denied or revoked on any of the following bases:
  - (1) A material violation of any provision of this chapter, including, but not limited to, the failure to provide the information required by Subsection 1300.16(a); or
  - (2) Any conviction of a disqualifying felony by the licensee, stakeholder, or any person holding an ownership interest in the license; or

- (3) Commission of fraud or misrepresentation or the making of a false statement by the applicant, licensee, or any stakeholder of the applicant or licensee while engaging in any activity for which this chapter requires a license; or
  - (4) Failure to obtain or maintain a license or renewed license from the City Clerk pursuant to this chapter; or
  - (5) Failure of the licensee or the medical marihuana establishment to obtain or maintain a license or approval from the State pursuant to the MMFLA; or
  - (6) The medical marihuana establishment is determined by the City to have become a public nuisance or otherwise is operating in a manner detrimental to the public health, safety or welfare.
- (c) Appeal of denial of an application or revocation of a license: the City Clerk shall notify an applicant of the reason(s) for denial of an application for a license or license renewal or for revocation of a license or any adverse decision under this chapter and provide the applicant with the opportunity to be heard. Any applicant aggrieved by the denial or revocation of a license or adverse decision under this chapter may appeal to the City Clerk, who shall appoint a hearing officer to hear and evaluate the appeal and make a recommendation to the Clerk. Such appeal shall be taken by filing with the City Clerk, within 14 days after notice of the action complained of has been mailed to the applicant's last known address on the records of the City Clerk, a written statement setting forth fully the grounds for the appeal. The Clerk shall review the report and recommendation of the hearing officer and make a decision on the matter. The Clerk's decision may be further appealed to the commission if applied for in writing to the commission no later than 30 days from the Clerk's decision. The review on appeal of a denial or revocation or adverse action shall be by the commission pursuant to Section 1300.03. Any decision by the commission on an appeal shall be final for purposes of judicial review. The Clerk may engage professional experts to assist with the proceedings under this Section 1300.15.

(Ord. No. 1217, § 1, 9-7-17)

1300.16. - Penalties; temporary suspension of a license.

- (a) The City may require an applicant or licensee of a medical marihuana facility to produce documents, records, or any other material pertinent to the investigation of an application or alleged violation of this chapter. Failure to provide the required material may be grounds for application denial or license revocation.
- (b) Any person in violation of any provision of this chapter, including the operation of a medical marihuana establishment without a license issued pursuant to this chapter, shall be subject to a civil fine and costs. Increased civil fines may be imposed for a repeat violation. As used in this section "repeat violation" shall mean a second or any subsequent infraction of the same requirement or provision committed by a person or establishment within any 12-month period. Unless otherwise specifically provided in this chapter, the penalty schedule is as follows:

- (1) \$750.00, plus costs, for the first violation.
  - (2) \$1,000.00, plus costs, for a repeat violation.
  - (3) \$1,000.00, plus costs, per day, plus costs, for any violation that continues for more than one day.
- (c) All fines imposed under this chapter shall be paid within 45 days after the effective date of the order imposing the fine or as otherwise specified in the order.
  - (d) The Clerk may temporarily suspend a medical marijuana establishment license without a prior hearing if the mayor finds that public safety or welfare requires emergency action affecting the public health, safety, or welfare. The Clerk shall cause the temporary suspension by issuing a suspension notice in connection with institution of proceedings for notice and a hearing.
  - (e) If the Clerk temporarily suspends a license without a prior hearing, the licensee is entitled to a hearing within 30 days after the suspension notice has been served on the licensee or posted on the licensed premises. In the case of a license issued for a medical marijuana grower facility, the hearing shall be held within seven days after the notice has been served on the licensee or posted on the premises of the licensed facility. The hearing shall be limited to the issues cited in the suspension notice.
  - (f) If the Clerk does not hold a hearing within 30 days after the date the suspension was served on the licensee or posted on the licensed premises, or in the case of a grower facility seven days, then the suspended license shall be automatically reinstated and the suspension vacated.
  - (g) The penalty provisions of this chapter are not intended to foreclose any other remedy or sanction that might be available to, or imposed by the City, including criminal prosecution.

(Ord. No. 1217, § 1, 9-7-17)

1300.17. - No vested rights.

A property owner lessor, license applicant, or licensee shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with this chapter or any amendment of this chapter.

(Ord. No. 1217, § 1, 9-7-17)

1300.18. - Zoning Board of Appeals.

- (a) When applying for a license as a provisioning center, an applicant who does not meet the requirements of Sections 1300.13(a)(1) or (2) may seek a variance from those requirements by submitting with their application a written application to the Board of Zoning Appeals and paying a fee set by Council resolution. Upon receiving an application with an accompanying application for a variance, the City Clerk shall determine whether the applicant has submitted a complete application meeting the requirements of this chapter, an appropriate nonrefundable license application fee,

and an appropriate variance application fee. If the applicant has satisfied these requirements and the applicant has received written approvals required under this chapter, the City Clerk shall immediately forward the application to the Board of Zoning Appeals.

- (1) The application must identify all of the reasons the applicant does not meet the requirements of Section 1300.13(a), including, if applicable, the name and address of any substance abuse treatment, prevention, or rehabilitation facility; church or other structure used for religious services; public park containing public playground equipment; or provisioning center that is within 500 feet of the applicant's location.
- (2) Upon receipt of an application meeting the requirements of Subsection (a), the Board shall give notice to the occupants of any residential or commercial buildings within the buffered use distances set forth in Section 1300.13(a) of the applicant's location. If the occupant's name is not known, the term "occupant" may be used. The notices shall be delivered personally or by mail at the address given in the last assessment roll.
- (3) The Board of Zoning Appeals shall either grant or deny the variance within a reasonable time. In determining whether to grant or deny the variance, the Board of Zoning Appeals shall consider all of the following:
  - i. The amount of time, if any, that the applicant has been operating in compliance with this chapter at the present location;
  - ii. The extent to which the applicant has demonstrated a commitment to the land use and public nuisance concerns in the surrounding neighborhood;
  - iii. The distance between the applicant's location and any medical marijuana provisioning center that is within 500 feet of the applicant's location;
  - iv. The need for a provisioning center at the location in order to provide the safe and efficient access to medical marijuana within the City;
  - v. The character of the structure and its surroundings; and
  - vi. The impact of the variance on the character of the structure's surroundings and owners of other properties in the vicinity.
- (4) If the Board of Zoning Appeals approves the variance, the application and decision shall immediately be submitted to the City Clerk for further processing under this chapter.

(Ord. No. 1217, § 1, 9-7-17)

1300.19. - Sunset.

Pursuant to Section 3-307 of the City Charter, this chapter shall expire December 1, 2027.

(Ord. No. 1217, § 1, 9-7-17)